

907 KAR 1:330. Hospice services.

RELATES TO: KRS 205.520, 42 C.F.R. 418.3, 418.20-418.30, 42 U.S.C. 1395d, 1395x(dd)(2), 1396d(o)

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3)

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services has responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the terms and conditions under which the Medicaid Program shall provide hospice care to both the categorically and medically needy.

Section 1. Definitions. (1) "Department approved system" means a technology system in which:

(a) Providers electronically submit and track level of care (LOC) requests through a self-service portal;

(b) The system triggers LOC tasks as reminders to providers and allows them to submit re-assessments electronically; and

(c) Information is exchanged electronically with Kentucky's:

1. Medicaid Enterprise Management System (MEMS); and

2. Integrated eligibility system.

(2) "Hospice care" means a package of palliative and supportive services:

(a) Provided by a hospice program to a terminally ill Medicaid recipient and the recipient's family to:

1. Alleviate the recipient's pain and suffering; and

2. Assist the recipient and the recipient's family to cope with dying and the circumstances surrounding terminal illness; and

(b) Provided in lieu of the benefits established in 42 U.S.C. 1395d(d)(2)(A) and services provided by an intermediate care facility for individuals with an intellectual disability.

(3) "Representative" means an individual who:

(a) Has the authority under state law (whether by statute or pursuant to an appointment by a court of law) to authorize or terminate medical care or to elect or revoke the election of hospice care on behalf of a terminally ill recipient who is mentally or physically incapacitated; and

(b) May be the recipient's legal guardian.

(4) "Terminally ill" is defined by 42 C.F.R. 418.3.

Section 2. General Provisions. (1) The recipient or the recipient's representative shall voluntarily elect hospice care if hospice care is to be provided.

(2) Institutionalized hospice care shall be provided to an individual in a skilled nursing or intermediate care facility.

(3) Non-institutionalized hospice care shall be provided to an individual in a home or hospice facility.

(4) Hospice care shall only be provided by an appropriately licensed, accredited, and certified hospice program, as defined by 42 U.S.C. 1395x(dd)(2), participating in both Medicare and Medicaid.

(5) Agency staff and participating providers of hospice services may review the federal Medicaid hospice regulations located in 42 C.F.R. part 418 for additional benefit descriptions and operating instructions relating to hospice services care.

Section 3. Voluntary Election. (1) Any terminally ill Medicaid recipient or recipient's representative may elect hospice coverage if hospice care is provided by a participating hospice program in that county service area.

(2) Each recipient shall have the following items completed in the department approved system:

(a) MAP-374, Election of Medicaid Hospice Benefits, to authenticate voluntary selection; and

(b) MAP-377, Physician's Statement for Medicaid Hospice Service, which is a statement from a physician to show that the recipient's illness is terminal and that death is expected to occur within six (6) months.

Section 4. Covered Services. (1) To be covered, hospice services shall be reasonable and medically necessary for the palliation or management of the terminal illness as well as related conditions.

(2) Covered services shall include:

(a) Nursing care and services by or under the supervision of a registered nurse;

(b) Mental health, nutritional, dietary, and bereavement counseling services for the recipient and the family;

(c) Physical therapy;

(d) Occupational therapy;

(e) Speech language pathology;

(f) Home health aide that performs simple procedures as an extension of:

1. Therapy services;

2. Personal care;

3. Ambulation and exercise;

4. Household services essential to health care at home;

5. Assistance with medications that are ordinarily self-administered;

6. Reporting changes in the patient's condition and needs; and

7. Completing appropriate records;

(g) Medical supplies and appliances;

(h) Short term inpatient care for pain control and symptom management;

(i) Medical social services;

(j) Respite care;

(k) Physician services;

(l) Pharmacy services for drugs related to the recipient's terminal illness;

(m) Room and board if the recipient is residing in a long term care facility; and

(n) Bed reservation days if in a long term care facility.

Section 5. Duration of Benefits. (1) There shall not be a limit on the number of days an individual may participate in the hospice program if the days fall within a covered benefit period as established in subsection (2) of this section.

(2) Hospice benefits shall consist of these benefit periods:

(a) Two (2) ninety (90) day periods; and

(b) Additional sixty (60) day periods that last until revocation or termination for other reasons such as ineligibility or death.

Section 6. Concurrent Medicare Coverage. If a Medicaid eligible individual with concurrent eligibility for hospice services under Medicare wishes to enroll in a hospice program under Medicaid, the individual shall, as a prerequisite for Medicaid hospice enrollment, enroll in the

Medicare hospice program.

Section 7. Disenrollment, Reenrollment, and Transfers. (1)(a) A recipient may disenroll from a hospice program at any time.

(b) In accordance with 42 C.F.R. 418.28, a recipient who disenrolls during any benefit period shall lose the unused portion of that benefit period.

(2) If an enrolled individual revokes his or her Medicare enrollment, the Medicaid enrollment shall be revoked simultaneously.

(3) If a county is served by two (2) or more hospice programs, or if the recipient moves county of residence to a county serviced by a different hospice, the recipient may transfer between hospice programs.

Section 8. Admission, Reassessment, and Discharge. (1) Prior to or on admission, a hospice provider shall submit on the department approved system the information required by the following forms, either by using the forms listed in paragraphs (a) and (b) of this subsection or by using a document developed by the hospice provider that includes the same information:

(a) MAP-374; and

(b) MAP-377.

(2) For reassessment, a hospice provider shall complete on a department approved system a MAP-377 prior to or on the date of expiration of the current authorization period.

(3) The discharge date shall be entered into a department approved system on or before the date of discharge.

Section 9. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) MAP-374, "Election of Medicaid Hospice Benefits", 1/18; and

(b) MAP-377, "Physician's Statement for Medicaid Hospice Service", 1/18.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law:

(a) At the Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky, Monday through Friday, 8:00 a.m. to 4:30 p.m.; or

(b) Online at the department's Web site at

<https://chfs.ky.gov/agencies/dms/Pages/mapforms.aspx>. (13 Ky.R. 1016; eff. 12-2-1986; Am. 15 Ky.R. 1983; eff. 3-15-1989; 17 Ky.R. 150; eff. 9-13-1990; 45 Ky.R. 2790; eff. 8-2-2019.)